

1 Documents that have been traditionally kept secret, including grand jury transcripts and
2 warrant materials in a pre-indictment investigation, come within an exception to the general right
3 of public access. *See Kamakana*, 447 F.3d at 1178. Otherwise, "a strong presumption in favor of
4 access is the starting point." *Id.* (internal quotation marks and citation omitted). "The
5 presumption of access is 'based on the need for federal courts, although independent—indeed,
6 particularly because they are independent—to have a measure of accountability and for the
7 public to have confidence in the administration of justice.'" *Center for Auto Safety v. Chrysler*
8 *Group, LLC*, 809 F.3d 1092, 1096 (9th Cir. 2016), *cert. denied*, 137 S.Ct. 38 (Oct. 3, 2016)
9 (quoting *United States v. Amodeo (Amodeo II)*, 71 F.3d 1044, 1048 (2nd Cir. 1995); *Valley*
10 *Broad Co. v. U.S. Dist. Ct., D. Nev.*, 798 F.2d 1289, 1294 (9th Cir. 1986)).

11 There are two possible standards a party must address when it seeks to file a document
12 under seal: the compelling reasons standard or the good cause standard. *Center for Auto Safety*,
13 809 F.3d at 1096-97. Under the compelling reasons standard, "a court may seal records only
14 when it finds 'a compelling reason and articulate[s] the factual basis for its ruling, without
15 relying on hypothesis or conjecture.'" *Id.* (quoting *Kamakana*, 447 F.3d at 1179). The court must
16 "'conscientiously balance[] the competing interests of the public and the party who seeks to keep
17 certain judicial records secret.'" *Id.* "What constitutes a 'compelling reason' is 'best left to the
18 sound discretion of the trial court.'" *Id.* (quoting *Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 599
19 (1978)). "Examples include when a court record might be used to 'gratify private spite or
20 promote public scandal,' to circulate 'libelous' statements, or 'as sources of business information
21 that might harm a litigant's competitive standing.'" *Id.*

22 The good cause standard, on the other hand, is the exception to public access that has
23 been typically applied to "sealed materials attached to a discovery motion unrelated to the merits

1 of the case." *Id.* (citation omitted). "The 'good cause language comes from Rule 26(c)(1), which
2 governs the issuance of protective orders in the discovery process: The court may, for good
3 cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or
4 undue burden or expense.'" *Id.*

5 The Ninth Circuit has clarified that the key in determining which standard to apply is
6 whether the documents proposed for sealing accompany a motion that is "more than tangentially
7 related to the merits of a case." *Center for Auto Safety*, 809 F.3d at 1101. If that is the case, the
8 compelling reasons standard is applied. If not, the good cause standard is applied.

9 Here, the parties seek to file exhibits under seal in connection with briefing on cross-
10 motions for summary judgment, which are unquestionably "more than tangentially related to the
11 merits of a case." Therefore, the compelling reasons standard applies.

12 This court, and others within the Ninth Circuit, have recognized that the need to protect
13 medical privacy qualifies as a "compelling reason" for sealing records. *See, e.g., San Ramon*
14 *Regional Med. Ctr., Inc. v. Principal Life Ins. Co.*, 2011 WL89931, at *n.1 (N.D. Cal. Jan. 10,
15 2011); *Abbey v. Hawaii Employers Mut. Ins. Co.*, 2010 WL4715793, at * 1-2 (D. HI. Nov. 15,
16 2010); *G. v. Hawaii*, 2010 WL 267483, at *1-2 (D.HI. June 25, 2010); *Wilkins v. Ahern*, 2010
17 WL3755654 (N.D. Cal. Sept. 24, 2010); *Lombardi v. TriWest Healthcare Alliance Corp.*, 2009
18 WL 1212170, at * 1 (D.Ariz. May 4, 2009). This is because a person's medical records contain
19 sensitive and private information about their health. While a plaintiff puts certain aspects of his
20 medical condition at issue when he files an action alleging deliberate indifference to a serious
21 medical need under the Eighth Amendment, that does not mean that the entirety of his medical
22 records filed in connection with a motion (which frequently contain records that pertain to
23 unrelated medical information) need be unnecessarily broadcast to the public. In other words, the

1 plaintiff's interest in keeping his sensitive health information confidential outweighs the public's
2 need for direct access to the medical records.

3 Here, the exhibits referenced by Defendants contain Plaintiff's sensitive health
4 information, medical history and treatment records. Balancing the need for the public's access to
5 information regarding Plaintiff's medical history, treatment, and condition against the need to
6 maintain the confidentiality of Plaintiff's medical records weighs in favor of sealing these
7 exhibits. Therefore, the motions (ECF Nos. 41 and 54) are **GRANTED**.

8 Plaintiff's motion asks for leave to file exhibits A, B, and C in support of his motion for
9 summary judgment under seal. (ECF No. 48.) Plaintiff filed a notice of filing under seal which
10 does not pertain to Exhibits A, B, and C, and instead is a notice of charges, which was
11 provisionally sealed by the Clerk. (ECF Nos 50, 50-1.)

12 Plaintiff's motion for summary judgment has two exhibit As. The first exhibit A contains
13 inmate request forms (kites) Plaintiff sent to the regarding when he would receive his shoes that
14 are the subject of his complaint, a receipt for the orthopedic shoes he eventually received, his
15 affidavit, The second exhibit A contains kites to defendant Keast about his shoes. Exhibit B
16 contains a grievance response from defendant Wickham about his shoes and kites sent to
17 defendant Wickham about his shoes. Exhibit C contains kites and letters sent to defendant
18 Aranas on this same issue. These documents do not contain any information that is not already
19 set forth in either Plaintiff's complaint or motion for summary judgment.

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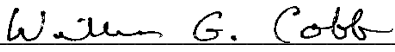
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1 Therefore, Plaintiff's motion is **DENIED**. The exhibits to Plaintiff's motion shall remain
2 **UNSEALED**. ECF No. 50-1, which was provisionally sealed by the Clerk, shall be
3 **UNSEALED**.

4 **IT IS SO ORDERED.**

5 Dated: May 19, 2020

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7 William G. Cobb
United States Magistrate Judge
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